

3536. Adulteration and misbranding of wine. U. S. v. 3 Barrels of Ohio Sherry Wine. Default decree of condemnation and forfeiture. Product distributed to charitable institutions. (F. & D. No. 5496 I. S. No. 2497-h. S. No. 2060.)

On December 18, 1913, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 3 barrels of so-called Ohio sherry wine, remaining unsold in the original unbroken packages at Detroit, Mich., alleging that the product had been shipped on November 7, 1913, and transported from the State of Ohio into the State of Michigan, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled "Jno. G. Dorn Ohio Sherry Wine Sandusky O."

It was alleged in the libel that the shipment of wine contained articles that were misbranded within the meaning and in violation of the act of Congress of June 30, 1906, known as the Food and Drugs Act, and were liable to seizure and condemnation in that said article of food was misbranded in violation of paragraph 1 of section 8 of said act, and also misbranded in violation of paragraph 2 of said section 8 of said act, under the classification of food, and that said article was further liable to condemnation in that it was adulterated in violation of section 7 of said Food and Drugs Act, and paragraph 1 under food in this act, an examination of the samples of said product by the Bureau of Chemistry of the Department of Agriculture having revealed that the product was imitation sherry wine, prepared from pomace and starch sugar, and containing sodium benzoate, a preservative, the presence and amount of which had not been declared on said label and had been substituted wholly or partly for sherry wine. It was further alleged that the product was liable to condemnation and confiscable under the terms and provisions of said act and section 10 thereof, for the reasons that each of said barrels by the label contained thereon was labeled and printed [branded] so as to deceive and mislead the purchaser thereof, and said product was adulterated in that a substitution [substitute] had been mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength, and that a substance had been substituted in part for the article, an analysis disclosing the fact that said product was an imitation of sherry wine, prepared from pomace and starch sugar, and containing sodium benzoate, a preservative as aforesaid, said misbranding, labeling, and adulterating as aforesaid constituting a violation within the meaning of said act of June 30, 1906.

On September 3, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be distributed by the United States marshal to certain charitable institutions, after the label upon the barrels was removed and the barrels plainly labeled and marked "Imitation Wine Preserved with 1/10 of 1 per cent benzoate soda."

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 13, 1915.*